



# Greater Mankato Growth Webinar: COVID-19 Paid Leave & EFMLA - Answering Employer Questions



**Welcome: Jessica Beyer  
Greater Mankato Growth, Inc.**





**Moderator: Patrick Baker  
Greater Mankato Growth, Inc.**



# Labor standards and other worker protections in Minnesota

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**Strategic Compliance Lead | Labor Standards**

# Laws enforced by Labor Standards

- Minnesota Fair Labor Standards Act
- Women's Economic Security Act
- Child Labor Standards Act
- Other laws related to employment, wage, conditions, hours, etc.

The Minnesota Department of Labor and Industry's Labor Standards unit is charged with administering parts or all of Minnesota statues 177, 181 and 184 as well as Minnesota Administrative Rules Chapter 5200.



# Final wages upon separation of employment

Employees **terminated, discharged, or fired** are due all wages and commissions within 24 hours of a written demand for payment.

For employees who **voluntarily leave employment**, wages and commissions are due on the next regularly scheduled payday. If the payday is within five days of the last day of work, the employer has up to 20 days to make final payment.

Penalties: The employer may be liable to pay their former employee's average daily earnings for up to 15 days the employer is late paying wages.

Exception: If an employee collected, disbursed or handled money or property, the employer has 10 days after termination to audit and adjust the accounts before paying all final wages.

# Minnesota sick and safe time leave law

If an employer allows an employee to take time off for their own illness, the employer must also allow the employee to take time off to care for an ill minor child, adult child, spouse, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent or stepparent.

The employer must allow an employee to use sick time in the same manner as the employer would allow the employee to use the leave for himself or herself. Under current law, this provision may not apply to all employees and all employers.



# Students working while taking classes at home



The time of day work restrictions in the child labor laws for school days apply when normal classes are in session during the regular school year in the school district.

These restrictions also apply to days identified as distance learning days.



# Salaried exempt workers

Under limited situations when a business decides to cut business hours, the employer can reduce the salary of an exempt worker. If a salaried exempt worker misses a full day of work for reasons other than the employer stating that no work is available, the employer may deduct a proportional amount of their salary. This deduction can only be made if the employee does not complete any work activities during that day. The employer cannot deduct from a salaried exempt employee's weekly salary if the reason for an absence is that there was no work available, unless there is no work available for the entire workweek.

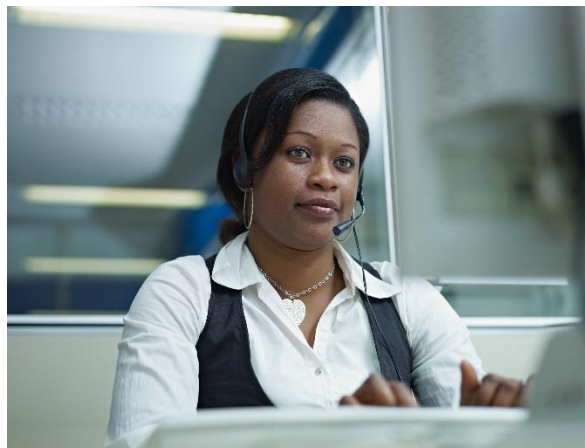
### Employee notice

1. Employee:		Address:	
Phone number:		Email address:	
Date employment began:			
2. Legal name of employer:		Main office/principal place of business address:	
Phone number:		Email address:	
Operating name of employer (if different):			
Mailing address (if different):			
3. Employment status (exempt or non-exempt):			
<input type="checkbox"/> Employee is exempt from: <input type="checkbox"/> minimum wage <input type="checkbox"/> overtime <input type="checkbox"/> other provisions of Minnesota Statutes 177			
Legal basis for exemption:			
<input type="checkbox"/> Employee is non-exempt (entitled to overtime, minimum wage, other protections under Minn. Stat. 177)			
4. Rate or rates of pay			
Paid by: Hour <input type="checkbox"/> Shift <input type="checkbox"/> Day <input type="checkbox"/> Week <input type="checkbox"/> Salary <input type="checkbox"/> Piece <input type="checkbox"/> Commission <input type="checkbox"/> Other method <input type="checkbox"/>			
Overtime is owed after: _____ hours			
Allowances claimed:			
\$ _____ per meal for meal allowance (max = 60% of one hour of adult minimum wage per meal)			
\$ _____ per day for lodging allowance (max = 75% of one hour of adult minimum wage per day) (or fair market value)			
5. Leave benefits available:			
<input type="checkbox"/> Sick leave <input type="checkbox"/> Paid vacation <input type="checkbox"/> Other paid time off			
How benefits are accrued: Number of hours _____ or days _____			
per <input type="checkbox"/> year <input type="checkbox"/> month <input type="checkbox"/> per pay period <input type="checkbox"/> per hours worked			
Terms of use:			
6. Deductions that may be made from employee's pay and amounts:			
7. Number of days in the pay period:		Regularly scheduled payday:	
Date employee will receive first payment of wages earned:			
8. Other information relevant to this position:			
I, the employee, have received a copy of this notice: <input type="checkbox"/> Yes <input type="checkbox"/> No			
Employer signature	Date	Employee signature	Date

# Employee notice

Employers are required to keep a copy of the notice signed by each employee.

Employers are also required to provide employees in writing any changes to the information in the notice before the date the changes take effect.



# Workers' comp law expands coverage during COVID-19

This new law states that certain employees who contract COVID-19 are presumed to have an occupational disease covered by the Minnesota workers' compensation law. An employee is entitled to the presumption if they contract COVID-19 on or after April 8, 2020, while employed in one of these occupations:

- a licensed peace officer, a firefighter a paramedic or an emergency medical technician;
- a nurse or health care worker, correctional officer or security counselor employed by the state or a political subdivision (such as a city or county) at a corrections, detention or secure treatment facility;
- a health care provider, nurse or assistive employee employed in a health care, home care or long-term care setting, with direct COVID-19 patient care or ancillary work in COVID-19 patient units; and
- a person required to provide child care to first responders and health care workers.



# Minnesota OSHA



Safety and health guidelines for the employers and employees of essential work operations: [www.dli.mn.gov/sites/default/files/pdf/COVID-19\\_s-h\\_guidelines\\_ers\\_and\\_ees.pdf](http://www.dli.mn.gov/sites/default/files/pdf/COVID-19_s-h_guidelines_ers_and_ees.pdf)

Minnesota OSHA Compliance: If you have workplace safety or health questions or concerns, contact MNOSHA Compliance at 651-284-5050 or [osha.compliance@state.mn.us](mailto:osha.compliance@state.mn.us).

Minnesota OSHA Workplace Safety Consultation: If you would like to request workplace safety or health assistance, contact MNOSHA Workplace Safety Consultation at 651-284-5060 or [osha.consultation@state.mn.us](mailto:osha.consultation@state.mn.us).

# Reasonable accommodations

The Minnesota Human Rights Act (MHRA) protects employees from discrimination on the basis of disability, race, national origin, age and other protected classes.

Individuals with disabilities have the right to request “reasonable accommodations” from employers that are subject to the Americans with Disabilities Act (ADA) and/or the MHRA.

Call the Minnesota Department of Human Rights at 651-539-1100.

# Thank you!

Sign up to receive DLI's Wage and Hour Bulletin at:

[www.dli.mn.gov/business/employment-practices/minnesota-wage-and-hour-bulletin.](http://www.dli.mn.gov/business/employment-practices/minnesota-wage-and-hour-bulletin)

Contact Labor Standards at 651-284-5075 or [dli.laborstandards@state.mn.us](mailto:dli.laborstandards@state.mn.us).



**Moderator: Patrick Baker  
Greater Mankato Growth, Inc.**



# The Families First Coronavirus Response Act (FFCRA)



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# Family First Coronavirus Response Act (FFCRA)

- Signed into law March 18, 2020
  - Emergency Paid Sick Leave Act (EPSLA)
  - Emergency Family and Medical Leave Expansion Act (EFMLEA)
- Effective April 1, 2020
- Expires December 31, 2020
- Enforced by the U.S. Department of Labor Wage and Hour Division (WHD)



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# FFCRA Requirements

- Coverage
- Employee Eligibility
- Qualifying Reasons for Leave
- Number of Weeks and Hours of Leave Available
- Calculation of Pay



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# FFCRA – Employer Coverage

- Private Sector
  - Employers of fewer than 500 employees
  - Including not for profit employers
- Public Agencies
  - Regardless of the number of employees they employ



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# FFCRA - Counting Employees

- Employer does not count employees working outside the U.S., U.S. territories, or D.C.
- Full-time AND part-time employees are counted
- Employees who are working and on leave are counted
- Temporary employees who are jointly employed are counted
- Day laborers supplied by a temporary agency are counted
- Count is made when employee leave is initiated



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# FFCRA - Qualifying Reasons for Leave

An employee is entitled to take leave if the employee is unable to work or telework because the employee:

- Is subject to a federal, state, or local quarantine or isolation order related to COVID-19,
- Has been advised by a health care provider to self-quarantine related to COVID-19,
- Is experiencing COVID-19 symptoms and is seeking a medical diagnosis,



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# FFCRA - Qualifying Reasons for Leave (Continued)

(Continued) An employee is entitled to take leave if the employee is unable to work or telework because the employee:

- Is caring for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 or has been advised by a health care provider to self-quarantine related to COVID-19,
- Is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons, or
- Is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services



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# FFCRA - Small Business Exemption

## Applies to:

- Small businesses with fewer than 50 employees, AND
- Employee's leave is to care for his or her child whose school or place of care is closed (or child care provider is unavailable), but only if
- Requirements of the FFCRA jeopardize business viability



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# FFCRA - Small Business Exemption: Employer Determines

## No application process - exemption applies if employer determines:

- Leave would result in expenses and financial obligations exceeding available business revenues and cause the small business to cease operating at a minimal capacity
- Employee's absence would entail a substantial risk to the financial health or operational capabilities of the business because of the employee's specialized skills, knowledge of the business, or responsibilities; OR
- Insufficient employees able, willing, and qualified at time and place needed to perform labor or services provided by the employee, and these labor or services are needed for business to operate at a minimal capacity.



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# FFCRA - Exclusion of Health Care Providers and Emergency Responders

## Employers may exclude employees who are either:

- Health Care Providers, or
- Emergency Responders



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# FFCRA – Exclusion of Health Care Providers

## Health Care Provider is:

Anyone employed at any doctor's office, hospital, health care center, clinic, post-secondary educational institution offering health care instruction, medical school, local health department or agency, nursing facility, retirement facility, nursing home, home health provider, any facility that performs laboratory or medical testing, pharmacy, OR any similar institution, employer, or entity.



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# FFCRA - Exclusion of Emergency Responders

## Emergency Responder is:

- Anyone necessary for transport, care, healthcare, comfort and nutrition of such patients, or others needed for the response to COVID-19.
- Includes military or national guard, law enforcement officers, correctional institution personnel, fire fighters, emergency medical services personnel, physicians, nurses, public health personnel, emergency medical technicians, paramedics, emergency management personnel, 911 operators, public works personnel, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency, as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility.



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# FFCRA - Employer Notice Requirement

- Poster must be conspicuously posted, may be distributed online, posted on employer website, directly mailed or e-mailed to employees
  - Does not have to be visible to job applicants
- DOL Spanish and English FFCRA posters available online at [www.dol.gov/whd](http://www.dol.gov/whd)
  - Translation not required



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# FFCRA – Employee Layoffs

- FFCRA requirements are not applicable prior to April 1, 2020
- If a business closes after April 1, but before an employee takes leave, FFCRA requirements do not apply except to the days from April 1 to the date employees are laid off
- If a business is open but lays off part of its workforce, employees who are laid off or furloughed are not entitled to leave under the FFCRA



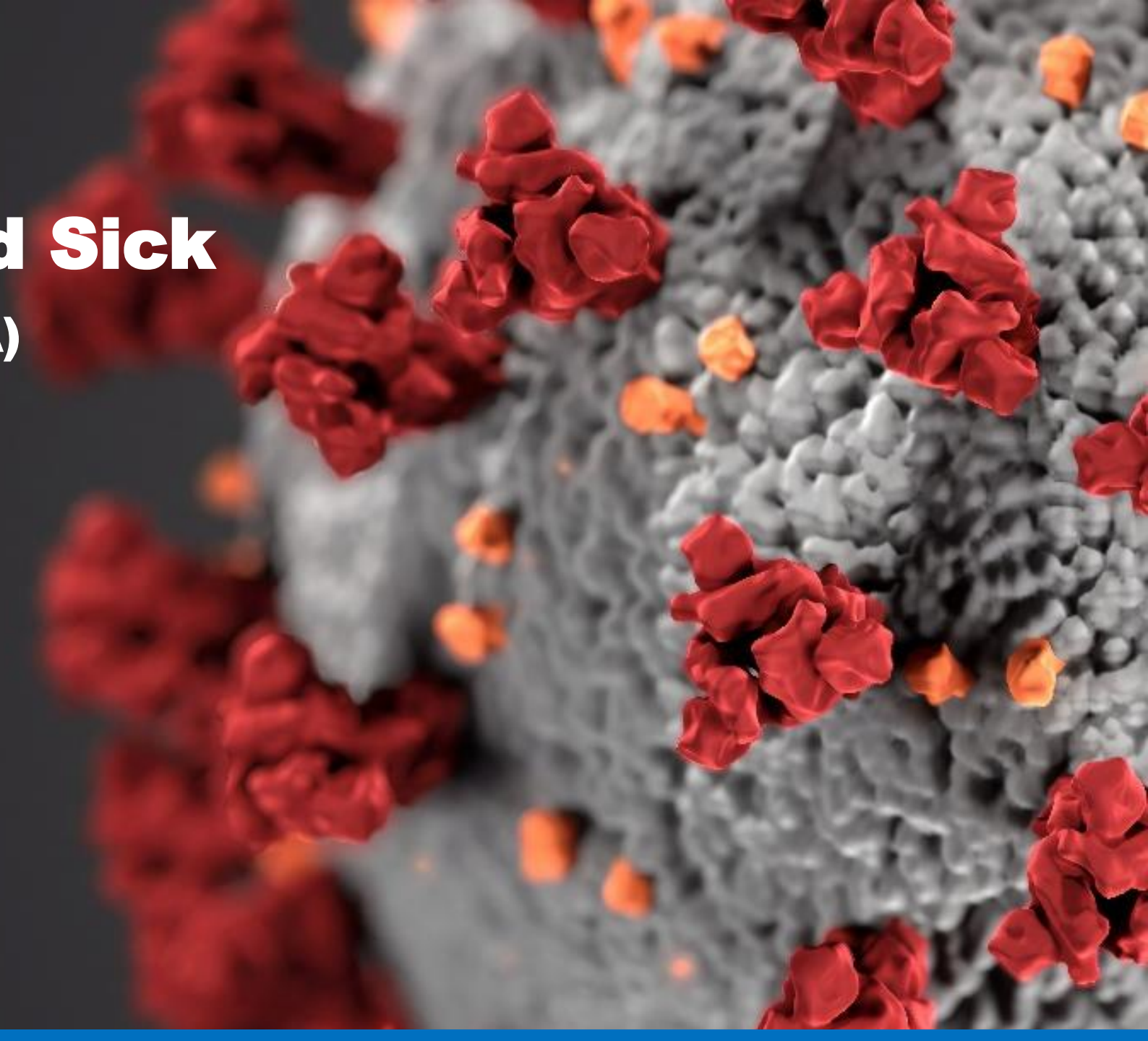
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# Emergency Paid Sick Leave Act (EPSLA)

Under the FFCRA

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# Emergency Paid Sick Leave Act (EPSLA)

## Benefit Basics:

- Six qualifying COVID-19 related reasons for job-protected leave
- During leave, continuation of health insurance
- Entitlement to paid sick leave over a 2-week period
  - Full-time employees, based on their schedule, up to 80 hours
  - Part-time employees, hours based on their schedule



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# EPSLA – Employee Eligibility

- All employees who work for covered employers are eligible
- Covered employers
  - Private sector employer with fewer than 500 employees
  - Public sector employers
    - All federal employees are generally eligible for EPSLA leave; however, OMB has authority to exclude certain federal employees



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# EPSLA – Qualifying Reasons for Leave (Reasons 1 – 3)

An employee is entitled to take leave under the EPSLA if the employee is unable to work or telework because the employee:

- 1) Is subject to a federal, state, or local quarantine or isolation order related to COVID-19,
- 2) Has been advised by a health care provider to self-quarantine due to concerns related to COVID-19,
- 3) Is experiencing COVID-19 symptoms and seeking a medical diagnosis,



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# EPSLA – Qualifying Reasons for Leave (Reasons 4 – 6)

**(Continued) An employee is entitled to take leave under the EPSLA if the employee is unable to work or telework because the employee:**

- 4) Is caring for an individual subject to a federal, state, or local quarantine or isolation order related to COVID-19, or who has been advised by a health care provider to self-quarantine due to concerns related to COVID-19,
- 5) **Is caring for his or her child whose school or place of care is closed (or child provider is unavailable) due to COVID-19 precautions, or**
- 6) Is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services



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# EPSLA – Duration of Leave

## Two-week period

- Full-time employees may use up to 80 hours
- Part-time employees may use a number of hours equal to the number of hours they work, on average, over a 2-week period



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# EPSLA – Required Rate of Pay

The applicable rate of pay is the **highest applicable wage rate**, either the:

- Employee’s regular rate of pay,
- FLSA minimum wage, or
- Highest applicable state or municipal minimum wage



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# EPSLA – Paid Leave, 100% Calculation (Reasons 1 – 3)

- The employee is due 100% the required rate of pay for leave hours taken because the employee:
  - Is subject to a federal, state, or local quarantine or isolation order related to COVID-19,
  - Has been advised by a health care provider to self-quarantine related to COVID-19, or
  - Is experiencing COVID-19 symptoms and is seeking a medical diagnosis
- Total pay capped at \$511 per day or \$5,110 in total



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# EPSLA – Paid Leave, Two-Thirds Calculation (Reasons 4 - 6)

- The employee is due two-thirds of the required rate of pay for leave hours taken because the employee:
  - Is caring for an individual subject to a federal, state, or local quarantine or isolation order related to COVID-19,
  - Is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons, or
  - Is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.
- Total pay capped at \$200 per day or \$2,000 in total



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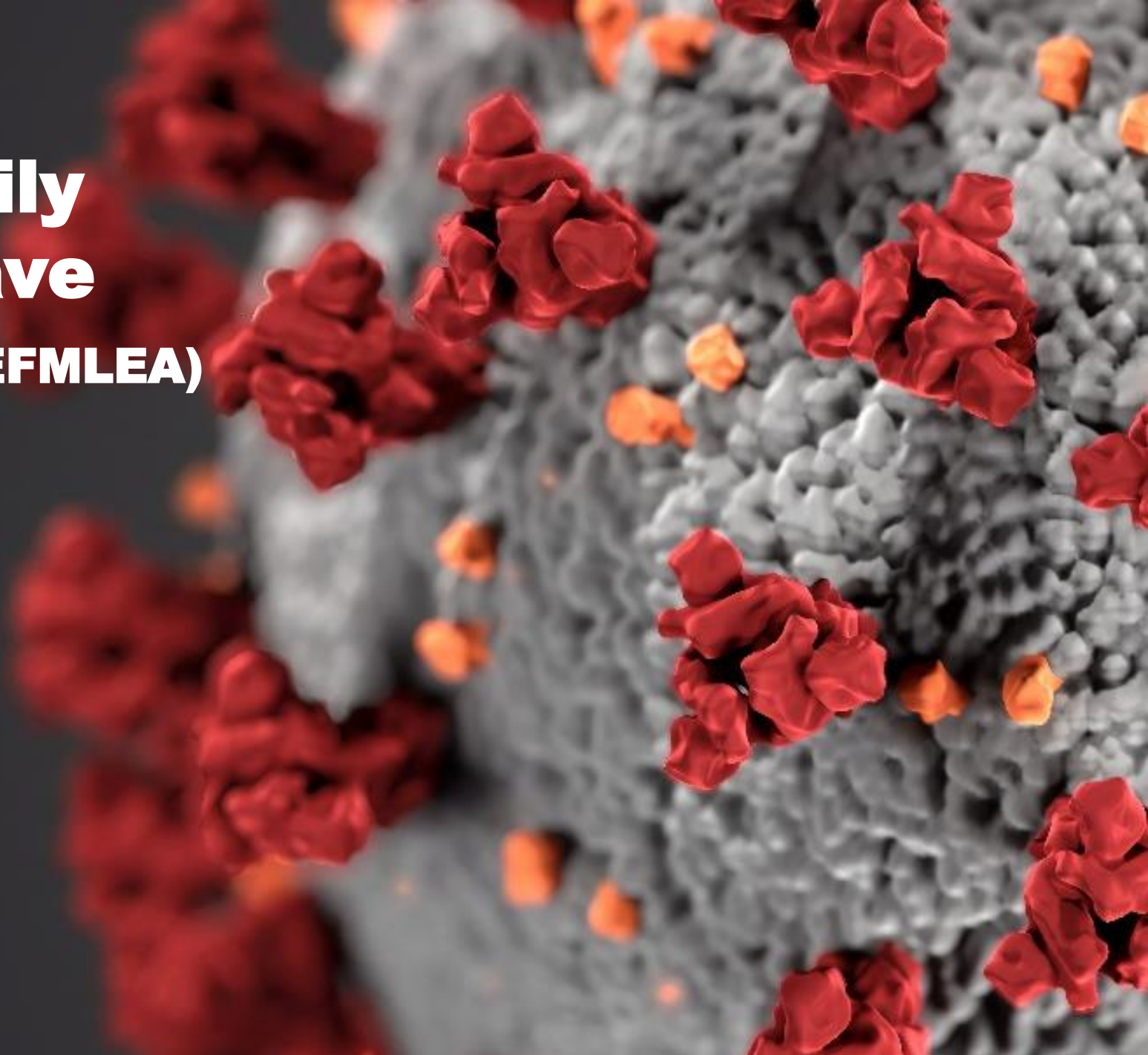
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# **Emergency Family and Medical Leave Expansion Act (EFMLEA)**

Under the FFCRA

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# Emergency Family and Medical Leave Expansion Act (EFMLEA)

## Benefit Basics:

- Employee can only use EFMLEA leave to care for his or her son or daughter whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons
- Up to 12 workweeks of job-protected leave, with continuation of health insurance
- Initial 2 weeks unpaid
- Remaining 10 weeks paid at two-thirds the employee's regular rate of pay



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# EFMLEA - Employee Eligibility

All employees, including full-time and part-time employees, of covered employers are eligible for EFMLEA if they have been employed by their employer for at least 30 calendar days.

- Reminders:
  - Private sector employers, including not for profit employers, are covered if they employ fewer than 500 employees
  - Public agencies are covered regardless of the number of employees they employ
    - Federal employee eligibility notes – employees under Title I of the FMLA are eligible under EFMLEA; OMB has authority to exclude certain federal employees



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# EFMLEA – Qualifying Reason for Leave

**There is only one qualifying reason for leave under the EFMLEA: Employee leave to care for his or her child whose school or childcare provider is closed or unavailable for reasons related to COVID-19**



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# EFMLEA – Unpaid and Paid Leave Periods

- Initial two weeks of EFMLEA leave is “unpaid”
  - Employee may choose to use paid sick leave under the EPSLA, or accrued paid time under their employer benefits package, at the same time as unpaid EFMLEA leave
- Up to 10 weeks paid leave available
  - Hours of leave are paid at two-thirds the employee’s regular rate of pay
  - Employer does not have to pay more than \$200 a day or \$10,000 total under EFMLEA



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# EFMLEA Leave – Interaction with the FMLA

This is a new leave reason under the FMLA, *not more weeks*

- An employee who has already used 12 weeks of leave under the FMLA is not able to use EFMLEA leave



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# FFCRA Resources

- [Families First Coronavirus Response Act: Employee Paid Leave Rights](#) - *Also available in Spanish*
- [Families First Coronavirus Response Act: Employer Paid Leave Requirements](#) - *Also available in Spanish*
- [Families First Coronavirus Response Act: Questions and Answers](#)
- [Field Assistance Bulletin \(FAB\) No. 2020-1](#)
- [\(Poster\) Employee Rights: Paid Sick Leave and Expanded Family and Medical Leave under The Families First Coronavirus Response Act \(FFCRA\)](#) - *Also available in Spanish*
- [Families First Coronavirus Response Act Notice - Frequently Asked Questions](#)
- [\(Poster\) Federal Employee Rights: Paid Sick Leave and Expanded Family and Medical Leave under the Families First Coronavirus Response Act](#) - *Also available in Spanish*
- [WHD-COVID19@dol.gov](mailto:WHD-COVID19@dol.gov) - *Email address for questions*



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**QUESTIONS?**